

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

Darrell DeBrew,	:	
Plaintiff,	:	Case No. 2:12 CV 170
v.	:	Judge Michael Watson
Vickie Stringer, et al.	:	Magistrate Judge Norah McCann King
Defendants.	:	JURY DEMAND ENDORSED HEREON

ANSWER OF DEFENDANT AMAZON.COM, INC.

Defendant Amazon.com, Inc. ("Amazon"), erroneously named as Amazon.com, for its answer to Plaintiff Darrell DeBrew's Complaint, states and avers as follows:

1. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of Plaintiff's Complaint and therefore denies the same.

2. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of Plaintiff's Complaint and therefore denies the same.

3. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of Plaintiff's Complaint and therefore denies the same.

4. In response to the allegations contained in Paragraph 4 of Plaintiff's Complaint, upon information and belief, Amazon admits that Triple Crown Publications has published Keisha and Stacy. Amazon is without information or knowledge sufficient to form a belief as to

the truth of the remaining allegations contained in Paragraph 4 of Plaintiff's Complaint and therefore denies the same.

5. Amazon admits that among other items, it sells books through its website and Kindle handheld devices.

6. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of Plaintiff's Complaint and therefore denies the same.

7. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of Plaintiff's Complaint and therefore denies the same.

8. Amazon does not contest the jurisdiction of this Court to adjudicate the claims against Amazon in this matter.

9. Amazon denies that venue in this district is appropriate.

10. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of Plaintiff's Complaint and therefore denies the same.

11. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of Plaintiff's Complaint and therefore denies the same.

12. In response to the allegations contained in Paragraph 12 of Plaintiff's Complaint, Amazon admits that Keisha has an ISBN No. of 0-9-9767894-3-4 and that Stacy has an ISBN No. of 0976789442. Amazon is without information or knowledge sufficient to form a belief as

to the truth of the allegations contained in Paragraph 12 of Plaintiff's Complaint and therefore denies the same.

13. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of Plaintiff's Complaint and therefore denies the same.

14. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of Plaintiff's Complaint and therefore denies the same.

15. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of Plaintiff's Complaint and therefore denies the same.

16. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of Plaintiff's Complaint and therefore denies the same.

17. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of Plaintiff's Complaint and therefore denies the same.

18. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of Plaintiff's Complaint and therefore denies the same.

19. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of Plaintiff's Complaint and therefore denies the same.

20. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of Plaintiff's Complaint and therefore denies the same.

21. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of Plaintiff's Complaint and therefore denies the same.

22. In response to the allegations contained in Paragraph 22 of Plaintiff's Complaint, Amazon admits that it received correspondence referred to as Exhibits 3-1 and 3-3 to Plaintiff's Complaint. Further responding, the correspondence is the best evidence of their contents. Further responding, Amazon denies the remaining allegations in Paragraph 22 of Plaintiff's Complaint.

23. In response to the allegations contained in Paragraph 23 of Plaintiff's Complaint, Amazon admits that it sent Plaintiff the correspondence referred to as Exhibit 3-4 to Plaintiff's Complaint. Further responding, the correspondence is the best evidence of its contents. Further responding, Amazon denies the remaining allegations in Paragraph 23 of Plaintiff's Complaint.

24. In response to the allegations contained in Paragraph 24 of Plaintiff's Complaint, Amazon admits that it received the correspondence referred to as Exhibit 3-5 to Plaintiff's Complaint. Further responding, the correspondence is the best evidence of its contents. Further responding, Amazon denies the remaining allegations in Paragraph 24 of Plaintiff's Complaint.

25. In response to the allegations contained in Paragraph 25 of Plaintiff's Complaint, Amazon admits that it sent Plaintiff the correspondence referred to as Exhibit 3-6 to Plaintiff's Complaint. Further responding, the correspondence is the best evidence of its contents. Further responding, Amazon denies the remaining allegations in Paragraph 25 of Plaintiff's Complaint.

26. In response to the allegations contained in Paragraph 26 of Plaintiff's Complaint, Amazon admits that it sent Plaintiff the correspondence referred to as Exhibit 3-4 to Plaintiff's Complaint. Further responding, the correspondence is the best evidence of its contents. Further responding, Amazon denies the remaining allegations in Paragraph 26 of Plaintiff's Complaint.

27. Amazon denies the allegations contained in Paragraph 27 of Plaintiff's Complaint.

28. Amazon denies the allegations contained in Paragraph 28 of Plaintiff's Complaint.

29. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of Plaintiff's Complaint and therefore denies the same.

30. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 30 of Plaintiff's Complaint and therefore denies the same.

31. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 31 of Plaintiff's Complaint and therefore denies the same.

32. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of Plaintiff's Complaint and therefore denies the same.

33. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of Plaintiff's Complaint and therefore denies the same.

34. Amazon denies the allegations contained in Paragraph 34 of Plaintiff's Complaint.

35. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 of Plaintiff's Complaint and therefore denies the same.

36. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of Plaintiff's Complaint and therefore denies the same.

37. Amazon is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of Plaintiff's Complaint and therefore denies the same.

38. Amazon denies each and every allegation of Plaintiff's Complaint to the extent not specifically admitted herein.

AFFIRMATIVE AND OTHER DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. Venue is not proper in this district.
3. Plaintiff's claims are barred, in whole or in part, by defenses set forth in the Copyright Act, 17 U.S.C. §§ 107 through 118, including but not limited to the doctrine of fair use.
4. Plaintiff's claims are barred, in whole or in part, under the first sale doctrine, 17 U.S.C. § 109.
5. Plaintiff's claims are barred, in whole or in part, because Amazon is immune from liability under the safe harbor provisions of 17 U.S.C. § 512.

6. Plaintiff's claims are barred, in whole or in part, because of his lack of ownership of copyrights, as required by 17 U.S.C. § 101, and/or by others' joint authorship and ownership of copyrights.

7. Plaintiff's claims are barred, in whole or in part, because Plaintiff has not properly or timely registered his copyrights under 17 U.S.C. § 401.

8. Plaintiff's claims are barred, in whole or in part, because any alleged copyright infringement was de minimus and/or innocent.

9. Plaintiff's damages, if any, were caused, in whole or in part, by Plaintiff's conduct, action, inaction, negligence, consent, assumption of the risk, or approval.

10. Plaintiff's claims are barred, in whole or in part, due to waiver, laches and estoppel.

11. Plaintiff has failed to mitigate or minimize his claimed damages.

12. Plaintiff's Complaint does not state a viable cause of action that permits recovery of exemplary or punitive damages.

13. Plaintiff is not entitled to statutory damages or attorneys' fees under either federal or Ohio law.

14. Injunctive relief is not appropriate as Plaintiff cannot establish irreparable harm.

15. Injunctive relief is not appropriate as Plaintiff cannot establish a likelihood of success on the merits.

16. Amazon reserves the right to assert such other defenses as may become available through the course of discovery.

WHEREFORE, Defendant Amazon.com, Inc. respectfully requests that the Court dismiss the claims of Plaintiff Darrell James DeBruw, enter judgment in Amazon's favor, and award Amazon its attorneys fees, costs, expenses and such other relief as the Court believes just and proper.

Respectfully submitted,

/s/ Kimberly Weber Herlihy
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JURY DEMAND

Defendant Amazon.com, Inc. demands a jury trial on all issues so triable.

/s/ Kimberly Weber Herlihy

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2012, I served a true and accurate copy of the forgoing on all parties via the Court's ECF system and served the parties listed below via U.S. Mail.

Darrell DeBrew
Butner Medium Federal Correctional Institution
Inmate Mail/Parcels P.O. Box 1000
Butner, North Carolina 27509

/s/ Kimberly Weber Herlihy
Kimberly Weber Herlihy